

By: Harris

S.B. No. 998

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a defendant's inability to pay certain expenses during
3 a period of probation provided by a judge in a justice or municipal
4 court.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 45.051, Code of Criminal Procedure, is
7 amended by amending Subsections (d) and (d-1) and adding Subsection
8 (d-2) to read as follows:

9 (d) If by the conclusion of the deferral period the
10 defendant does not present satisfactory evidence that the defendant
11 complied with all of the requirements imposed, the judge may impose
12 the fine assessed or impose a lesser fine. The imposition of the
13 fine or lesser fine constitutes a final conviction of the
14 defendant. This subsection does not apply to a defendant who:

15 (1) is required under Subsection (b-1) to complete a
16 driving safety course approved under Chapter 1001, Education Code,
17 or an examination under Section 521.161(b)(2), Transportation
18 Code; or

19 (2) has presented to the judge satisfactory evidence
20 that the defendant:

21 (A) has paid all court costs and complied with
22 all of the requirements imposed by the judge other than one or more
23 requirements involving the payment of money, such as a requirement
24 related to the posting of a bond, the payment of restitution,

1 participation in a treatment or education program, or the
2 completion of a driving safety course or related examination; and

3 (B) is unable to pay the amount or amounts.

4 (d-1) Subject to Subsection (d-2), if [~~if~~] the defendant was
5 required to complete a driving safety course or an examination
6 under Subsection (b-1) and by the conclusion of the deferral period
7 the defendant does not present satisfactory evidence that the
8 defendant completed that course or examination, the judge shall
9 impose the fine assessed. The imposition of the fine constitutes a
10 final conviction of the defendant.

11 (d-2) If the defendant presents to the judge satisfactory
12 evidence under Subsection (d)(2), the judge may:

13 (1) for one additional period not to exceed 180 days,
14 extend the defendant's probation period as appropriate to permit
15 the defendant to pay the amount or amounts described by Subsection
16 (d)(2)(A);

17 (2) require the defendant to perform in the manner
18 described by Article 45.049 community service to discharge all or
19 part of the amount or amounts described by Subsection (d)(2)(A); or

20 (3) dismiss the complaint without imposing a special
21 expense for the dismissal and make the notation in the docket
22 required by Subsection (c).

23 SECTION 2. The change in law made by this Act applies to a
24 defendant who serves a period of probation under Chapter 45, Code of
25 Criminal Procedure, on or after the effective date of this Act,
26 regardless of when the defendant committed the offense for which
27 the defendant is placed on probation.

1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2007.